

DISPOSITION: May 10, 1954. The defendants having entered pleas of guilty, the court imposed a fine of \$500 against the corporation and a fine of \$250 against the individual, plus costs.

20748. Adulteration of tomato juice. U. S. v. Wann Packing Co. Plea of guilty. Fine of \$500, plus costs. (F. D. C. No. 32823. Sample Nos. 36070-L, 48820-L.)

INFORMATION FILED: October 10, 1952, Southern District of Indiana, against the Wann Packing Co., a partnership, Frankton, Ind.; amended information filed on or about August 31, 1953.

ALLEGED SHIPMENT: On or about March 12 and April 8, 1952, from the State of Indiana into the States of Ohio and Minnesota.

LABEL, IN PART: (Can) "Roy Boy Tomato Juice Contents 1 Qt. 14 Fl. Oz. Packed by Laughlin Packing Co., Frankton, Ind."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of decomposed tomato material; and, Section 402 (a) (4), the article was prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 25, 1953. The defendant having entered a plea of guilty, the court imposed a fine of \$500, plus costs.

MEAT AND POULTRY

20749. Adulteration and misbranding of horsemeat. U. S. v. Orlando DeStefani (Red & White Market and DeStefani's Market). Plea of guilty. Defendant fined \$750 and placed on probation for 1 year. (F. D. C. 34326. Sample Nos. 6636-L, 6638-L, 44307-L, 44311-L.)

INFORMATION FILED: June 8, 1953, District of Rhode Island, against Orlando DeStefani, trading and doing business as the Red & White Market and DeStefani's Market, Woonsocket, R. I.

ALLEGED VIOLATION: On or about June 13 and 20, 1952, while a quantity of horsemeat was being held for sale at the Red & White Market (also known as DeStefani's Market), after shipment in interstate commerce, the defendant caused a quantity of the horsemeat to be sold as beef hamburger, cube beef steak, and stew beef, which acts resulted in the article being adulterated and misbranded.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), horsemeat had been substituted for beef hamburger and stew beef.

Misbranding, Section 403 (b), the article was offered for sale under the name of other foods, namely, beef hamburger and cube beef steak.

DISPOSITION: April 6, 1954. The defendant having entered a plea of guilty, the court fined him \$750 and placed him on probation for 1 year.

20750. Action to enjoin and restrain the interstate shipment of adulterated poultry. U. S. v. Delmarva Poultry Corp., Eagle Poultry Packers, Inc., Royal Poultry Corp., David Pack, and Harry Landes. Temporary restraining order issued. (Inj. No. 243.)

COMPLAINT FILED: May 8, 1952, District of Delaware, against the Delmarva Poultry Corp., Milford and Frankford, Del.; Eagle Poultry Packers, Inc., Frankford, Del.; the Royal Poultry Corp., Frankford, Del.; and David Pack,

president of the Delmarva Poultry Corp. and the Royal Poultry Corp., and Harry Landes, president of Eagle Poultry Packers, Inc., and chairman of the board of directors of the Delmarva Poultry Corp. and the Royal Poultry Corp.

NATURE OF CHARGE: The complaint alleged that the defendants had been and were at the time introducing and causing to be introduced, and delivering and causing to be delivered, for introduction into interstate commerce, at Milford and Frankford, Del., various quantities of poultry which were adulterated as follows:

Section 402 (a) (3), the poultry consisted in part of a filthy substance by reason of its contamination with fecal matter, crop material, and filthy wax, of a decomposed substance by reason of the presence of decomposed poultry, and was otherwise unfit for food by reason of excessively bruised birds;

Section 402 (a) (4), the poultry had been and was being prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth; and,

Section 402 (a) (5), the poultry was in part the product of diseased birds and of birds which had died otherwise than by slaughter.

The complaint alleged further that the insanitary conditions in the Delmarva Poultry Corp. plants where poultry had been and was being slaughtered, processed, packed, and held, resulted from and consisted of the use of poultry carcasses which had been dropped on floors which were covered with fecal matter, crop material, and other filth; the contamination of poultry by flies; the use of filthy water to scald and chill the poultry; the smearing of dressed poultry with crop and fecal material; and the use in defeathering operations of filthy wax which had been dropped to the floor into fecal matter, crop material, and other filth.

The complaint alleged also that the defendants were well aware that their activities were in violation of the law; that during 1950 and 1951, the Food and Drug Administration had examined 21 lots of adulterated poultry shipped in interstate commerce by the Delmarva Poultry Corp.; that 10 lots of such poultry were seized under the provisions of the Act; that during 1950, 5 lots of adulterated poultry were shipped in interstate commerce by Eagle Poultry Packers, Inc., and that 1 lot of such poultry was seized; that during 1950 and on March 5, 1952, 2 lots of violative poultry shipped by the Royal Poultry Corp., in interstate commerce, were seized; that several inspections of the plants of the Delmarva Poultry Corp. and Eagle Poultry Packers, Inc., were made by the Food and Drug Administration, during which the insanitary conditions existing in the plants were brought to the attention of such corporations and their employees; that several notices of hearing pursuant to Section 305 had been issued to the defendants, and, in response thereto, David Pack and Harry Landes had appeared and had been advised of the illegal nature of the operations; and that on December 11, 1950, a fine of \$1,500 was imposed against Eagle Poultry Packers, Inc., for the interstate shipment of adulterated poultry.

It was alleged further that the Delmarva Poultry Corp., David Pack, and Harry Landes had stored at Dover, Del., approximately 19,726 pounds of adulterated dressed poultry, which, in the usual and ordinary course of business, would be shipped in interstate commerce and which constituted a menace to interstate commerce because of the presence of diseased poultry, bruised poultry, decomposed poultry, and poultry contaminated with crop material and fecal matter.

DISPOSITION: On May 8, 1952, a temporary restraining order was entered, enjoining the defendants from directly or indirectly introducing or causing to be introduced, or delivering or causing to be delivered, for introduction into interstate commerce, poultry adulterated within the meaning of Section 402 (a) (3), (4), or (5). The temporary restraining order subsequently was extended by stipulations of the parties.

On August 14, 1952, it was agreed by the parties that the temporary restraining order, only insofar as it applied to the Delmarva Poultry Corp. and the Royal Poultry Corp., should be continued in effect until May 7, 1953, at which time the order should automatically expire; that the poultry in storage at Dover, Del., should be returned for regrading to the Delmarva plant at Milford, Del., and approved by an official of the Federal Security Agency before introduction into interstate commerce; and that any of such poultry found violative should be destroyed. The temporary restraining order expired on May 7, 1953, without further legal action being taken.

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¹ (20736) Forfeiture of bond contested. Contains findings of fact, conclusions of law, and order of the court.

² (20750) Injunction issued.

207 6 1

U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20751-20800

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare, and include, where indicated, the results of investigations by the Department, prior to the institution of the proceedings. Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., September 28, 1954.

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